UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MEMORANDUM

DATE: December 21, 2000

SUBJECT: Region 5 Comments: Preliminary Recommendations on Industrial Excess Landfill Superfund Site, Uniontown, Ohio

FROM: Francis X. Lyons
Regional Administrator

TO: Robert J. Martin
National Ombudsman

Region 5 has reviewed your preliminary recommendations on the Industrial Excess Landfill (IEL) Superfund Site and hereby submits comments for your consideration. Prior to their release to the public on October 23, 2000, we reviewed your recommendations and the supporting analysis you provided for accuracy and submitted our findings to you on October 20, 2000. Our findings below are in addition to the factual review we sent you earlier. My office will be available to answer any questions you may have on this matter.

Summary

We believe site characterization at IEL has been adequate, enabling our office to choose an appropriate remedy for the site that is fully protective of human health and the environment. Nevertheless, we are continuing to gather information about the site, primarily through on-going groundwater surveys, which include radiation testing. Furthermore, a long-term monitoring program will be implemented after the remedy is constructed to ensure the cleanup objectives established for the site are being met. Finally, we plan to discuss with the Emergency Response Team (ERT) what additional investigation(s), if any, is warranted for IEL.

With regard to forming a technical working group, we would like to point out that there is already such a group in existence at this site. This group, referred to as the Technical Information Committee (TIC), has met on numerous occasions since 1990 to review technical documents prepared for IEL. The TIC includes the members you propose in your report (e.g., Region 5, OEPA, CCLT, Lake Township, PRPs, etc.), but also includes elected Federal/State officials and representatives from the Office of Solid Waste and Emergency Response (OSWER). If you are interested, we would be happy to include you as a participant in future TIC meetings. Kindly contact my staff to indicate your interest in this matter.

Analysis of Preliminary Recommendations

Recommendation: *The EPA Environmental Response Team should provide oversight and coordination for additional characterization work involving: 1) trenching the site to allow for more complete analysis of contamination and, 2) establishing a comprehensive monitoring network off-site and performance of microbial studies to fulfill the EPA Guidance on Natural Attenuation and to further understand the impact of potential migration of wastes to nearby homes and drinking water wells. This work should be implemented in tandem with the work being done by the Region, the Trustees and Responsible Parties.*

Response: Region 5 will consult with ERT on this issue. Although we are open to additional testing at the site, it is not clear what trenching would accomplish. IEL has already been thoroughly investigated through the use of records searches; interviews; boreholes; groundwater, surface water, and landfill gas studies, etc. A summary of various surveys conducted by Region 5 to fill data gaps identified in the 1989 ROD and Responsiveness Summary is attached for your convenience. ERT has been involved with site characterization on IEL in the past, conducting soil gas surveys at the landfill and indoor air testing at nearby homes. This is in addition to their work in installing the

Methane Venting System (MVS) to control off-site gas migration at the landfill. Based on the work ERT has already done and the other studies conducted on this site, we believe IEL has been adequately characterized. Additional testing is currently being conducted at the site by responsible parties to evaluate groundwater quality trends and verify the continued performance of monitored natural attenuation (MNA) at IEL. These tests, which are being coordinated with Lake Township and include limited testing for radiation, are expected to continue for the foreseeable future. Also, a long-term monitoring program will be developed by Region 5, as required by the March 2000 ROD Amendment. This is to ensure that cleanup objectives will be met on a timely basis. Region 5 has already discussed with the community and PRPs what the general outline of this long-term monitoring plan will look like (e.g., objectives, monitoring well network, duration, etc.).

Basis of Response

Below is a point-by-point response to the factors you cited in your report as the basis for your recommendation that EPA undertake additional site characterization.

1992 Clean Sites Report: In your report, you refer to recommendations made in the 1992 Clean Sites Report concerning site characterization and you imply that Clean Sites recommended a new, comprehensive site characterization at IEL. In fact, the Clean Sites Report refers only to characterization with respect to radiation (See pages 13-17 of the report). There was no mention of any other kind of data collection needed. Nor was there a recommendation that we consider more general site characterization, let alone trenching, before proceeding. Region 5 responded to the Clean Sites Report and, in a follow-up report released in 1995 (see attached), Clean Sites concluded that the Agency had substantially implemented all of the recommendations of the original report.

1994 SAB Report: You suggest that the 1994 SAB report went even further than Clean Sites, stating that “the experience at the IEL site is an indication that the standard procedures used for Superfund Sites in terms of site characterization are inadequate in the face of concerns of the surrounding community.” Region 5 respectfully points out that

the SAB was referring here solely to site characterization with regard to radiation, not to standard contaminants such as volatile organics or metals.

At the bottom of page 10, after giving your analysis of the requirements of the National Contingency Plan, you return to the SAB report, quoting extensively from the SAB's description of the problems that caused Region 5 to invalidate two rounds of radiation samples. It is not clear what point you are making here. The Region itself had concluded that problems in the conduct of the first two rounds of radiation sampling made invalidation of the data necessary. The SAB reviewed that decision and concluded that Region 5 made the right choice. Following the invalidation of the initial radiation samples, Region 5 collected 4 additional rounds, all of which were validated. Data from these samples provided the evidence upon which the SAB concluded there was no indication of a radiation problem at the landfill. Region 5 maintains there is no justification whatever for using problems with radiation sampling to impugn the Region's characterization of conventional contamination at IEL. The difficulties the Region experienced with the initial radiation sampling were due at least in part to the fact such sampling is unusual, and, at the time, the Agency had little practical experience with the contractors who were retained to do this work. That was not the case at all with respect to conventional contamination.

NCP Requirements: You asserted that the 1987, 1989, and 2000 Records of Decision revealed a failure to meet the requirements of 40 CFR 300.430(d)((2)(iii), saying that "little or no landfill waste characterization was undertaken . . ." . We beg to differ. We believe the NCP and appropriate guidance documents were correctly applied in reaching a remedy decision for IEL. Region 5 used reports from IEL customers (e.g., dump tickets, responses to Section104(e) information requests, etc.), descriptions given by the owner/operators, and analyses of groundwater, soil, and landfill gas samples collected between 1986 and 1993 to characterize the site. If what you meant here is that Region 5 did not dig up the landfill and analyze it, that is true. However, that is not necessary to meet the objectives set forth in the NCP. Site information indicates that IEL is a fairly typical mixed-waste landfill NPL site. The Agency has found that exhaustive site characterization is not necessary in order to proceed with a remedy at these sites (see attached OSWER

document “Presumptive Remedy for CERCLA Municipal Landfill Sites”, EPA 540-F-93-035). Because Region 5 has tried to be responsive to community concerns about the possibility of radiation or other unusual hazards, the Region has in fact provided a much higher degree of characterization at IEL than is generally the case at NPL mixed-waste landfills. It is therefore all the more difficult to see how the Agency’s conduct here fails to meet the requirements of the NCP.

Public Comments: You quoted several public comments made during your January, 1999 meeting in Uniontown, Ohio. One from Mr. James Titmas asserts that EPA is responsible for “a massive underestimation of the IEL . . . “ (page 11). Mr. Titmas’s conclusions are left to stand in your report, as if the Agency never responded to them. In fact, representatives of the Agency spoke with Mr. Titmas on several occasions, and formal responses to his concerns were included in the Responsiveness Summary issued with the March 2000 Record of Decision Amendment. (See responses to comments numbered 23, 58, 59, 60 and 72).

Your report also cited Dr. Theodore Magel, a 79-year-old former scientist who had worked on the Manhattan Project. Apparently convinced that radioactive waste was disposed of at IEL, Dr. Magel suggested in a letter to Senator Glenn that core drilling be done at the landfill. It appeared that you concurred with this suggestion, with no apparent weighing of the arguments against such testing. The SAB, in its 1994 report, specifically examined the issue of whether core testing was necessary to detect radioactive wastes, and concluded that it was not. Moreover, the Agency as recently as in the March 2000 Responsiveness Summary reiterated the numerous reasons for opposing core sampling.

Recommendation: *EPA Region 5 should assist the National Ombudsman in convening a Technical Working Group within 60 days to openly and jointly address technical issues at the IEL site. Representation should include the Region, the National Ombudsman, the Environmental Response Team, the Ohio EPA, the Lake Township Trustees and their technical advisors, and the Concerned Citizens of Lake Township*

and their technical advisors, as well as the Responsible Parties and their technical advisors.

Response: A technical working group that addresses technical issues concerning IEL is already in place. It is called the Technical Information Committee (TIC). The TIC has met fourteen (14) times since 1990, the most recent meeting taking place in April 1999. A copy of the prospectus for the group is attached. Members include EPA (Region 5 and OSWER representatives), OEPA, CCLT, Lake Township Trustees, Stark County, ATSDR, PRPs, elected Federal/State officials, and the local health department. As you can see, the parties you recommended should be part of a technical working group are already members of the TIC. We believe the TIC, in its current structure, can carry out the objectives you outlined for your proposed technical working group. My staff will be happy to sit down with you to discuss your participation in the TIC, if you wish.

Other Relevant Issues for Discussion

Natural Attenuation: In the last part of your report, you asserted that more testing needs to be done to confirm that natural attenuation is taking place. You cite certain sections of the 1997 guidance (OSWER Directive 9200.17, "Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action, and Underground Storage Tank Sites") and comments from Tom Shalala to suggest additional studies are needed to support the use of monitored natural attenuation (MNA) at IEL. We believe that our decision to choose MNA as a remedy in IEL was done in accordance with the guidance. The MNA guidance lays out a three-tiered approach to evaluate the efficacy of MNA as a remedy in Superfund sites. The first tier is historical data, the second is hydrogeologic and geochemical data, and the third is field or microcosm studies. As described above, there has been substantial data collected on IEL over the past 10 years. Specifically, the 9 rounds of groundwater data we used for this evaluation indicated a clear trend of decreasing contaminant levels over time. Given this strong historical evidence, there was no need to undertake Tier 2 or Tier 3 type investigations to support a decision to choose MNA as a remedy. In his letter of October 27, 2000 (attached), Mr. Shalala, representing Lake

Township, recognized that, under the tiered approach, a microbial study is not necessary if the criteria for a Tier 1 or Tier 2 evaluation have been met. In any event, Region 5 recognizes that using MNA must include sufficient monitoring to assure EPA that it is working and that no release of contamination that might pose a risk to human health occurs without an appropriate response. EPA has every intention of including such a requirement in any long-term monitoring program.

Community Involvement : Region 5 has made every effort to involve the community in important decisions concerning this site, with mixed results. However, recently, the Lake Township Trustees and Region 5 have been discussing ways in which progress could be at the site in a way that would satisfy both the Region and the community. EPA views this as a very positive development and will make every effort to follow through on it.

Attachments